



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG

Docket No: 955-00

27 February 2001

CAPT [REDACTED] CMC
[REDACTED]
[REDACTED]

Dear Captain [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of your contested fitness report for 1 February to 31 July 1994.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 February 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), dated 4 October 2000, the two advisory opinions from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 9 March and 29 September 2000, and a memorandum for the record (MFR) dated 21 February 2001, copies of which are attached. They also considered your letters dated 14 July 2000, with enclosures, and 17 July 2000.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board substantially concurred with the comments contained in the report of the PERB in finding that your contested fitness report for 8 July to 31 October 1992 should stand.

The Board found that your failures by the Fiscal Year (FY) 2000 through 2002 Major Selection Boards should remain as well. In this regard, they particularly noted the MFR in finding that your removed fitness report for 17 January to 4 September 1998 was not in your

record before the Fiscal Year (FY) 2000 Major Selection Board, which convened on 17 November 1998 and adjourned on 9 December 1998. They further noted that the reviewing officer did not sign this report until 8 December 1998, the day before the selection board adjourned. They substantially concurred with the MMOA-4 opinion dated 29 September 2000 in finding that your selection by the FY 2000 and 2001 Major Selection Boards would have been definitely unlikely, even if your report for 1 February to 31 July 1994 had not been in your record for both boards, and even if your report for 17 January to 4 September 1998 had not been in your record before the FY 2001 Major Selection Board, which convened on 26 October 1999. In light of the MFR, they further found that your fitness report record before the FY 2002 Major Selection Board, which convened on 30 October 2000, had been fully corrected. Since the Board found insufficient basis to strike your failure by the FY 2000 Major Selection Board, and they found your fitness report record before the FY 2002 Major Selection Board had been corrected, they had no grounds to remove your FY 2002 failure.

As the Board found insufficient basis to remove any of your failures of selection for promotion, they had no grounds to recommend granting you consideration by a special selection board, or set aside action to effect your involuntary retirement scheduled for 1 December 2002.

In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
4 OCT 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
CAPTAIN [REDACTED], [REDACTED] USMC --

Ref: (a) Captain [REDACTED] ltr 1000 S-3 of 17 Jul 00
(b) MCO P1610.7C w/Ch 1-6

Encl: (1) CMC Advisory Opinion 1600 MMOA-4 of 29 Sep 00

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 26 September 2000 to consider the requests contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 920708 to 921031 (CH)
- b. Report B - 940201 to 940731 (CH)

Reference (b) is the performance evaluation directive governing the submission of both reports.

2. The petitioner contends that the comments in Section C of Report A, as well as the Reviewing Officer's comments, do not match the Section B markings. Additionally, he believes the Reporting Senior was biased in his review by stating that he did not give "outstanding" reports to First Lieutenants. Concerning Report B, the petitioner states that during the period of the report the Reporting Senior was under investigation and subsequently relieved. He also indicates he was required to provide a written statement in support of the command, against his Reporting Senior.

3. In its proceedings, the PERB concluded that:

- a. Report A is both administratively correct and procedurally complete as written and filed. By all accounts, the evaluation portrays an overall "excellent/outstanding" performance of duty with no noted deficiencies whatsoever. That the petitioner believes there are inconsistencies is viewed as his misunderstanding of the guidelines/definitions contained in reference (b). Finally, there has been nothing included in reference (a) to support or corroborate the petitioner's state-

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
CAPTAIN [REDACTED] USMC

ment that the Reporting Senior made the statement that he did not give "outstanding" fitness reports to First Lieutenants.

b. The removal of Report B is warranted and has been directed.

4. The Board's opinion, based on deliberation and secret ballot vote, is that Report A should remain a part of Captain [REDACTED] official military record.

5. The enclosure is furnished to assist in resolving Captain [REDACTED] request for the removal of his failure of selection.

6. The case is forwarded for final action.

[REDACTED]

Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

955-00

IN REPLY REFER TO:

1600
MMA-4
9 Mar 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Administrative Opinion in the case of
Capt. [REDACTED] USMC
of 7 Mar 00

1. Recommend disapproval of Captain [REDACTED] request for removal of his failures of selection.
2. Per the reference, we reviewed Captain [REDACTED]'s record and petition. He failed selection on the FY00 and FY01 USMC Major Selection Boards. Subsequently, he successfully petitioned the Performance Evaluation Review Board (PERB) for removal of the Directed by the Commandant of the Marine Corps fitness report of 980117 to 980904. Captain [REDACTED] requests removal of his failures of selection.
3. In our opinion, the petitioned report did present competitive concern to the record. However, Captain [REDACTED] has other areas of competitive concern in his record that more than likely led to his failures of selection.

a. **Section B Marks.** The record reflects less competitive Section B marks in Additional Duties, Administrative Duties, Handling Officers, Tactical Handling of Troops, Military Presence, Attention to Duty, Initiative, Judgment, Force, Leadership and Economy of Management.

b. **Overall Value and Distribution.** Captain [REDACTED]'s overall Value and Distribution marks are less competitive. He has thirty officers ranked above him and thirteen below, placing him near the bottom of the pack.

c. **Section C and Reviewing Officer Comments.** Captain [REDACTED] Section C and Reviewing Officer comments are replete with growing comments concerning administrative duties, operational experience and professional growth.

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
[REDACTED] USMC

4. In summary, we believe Captain [REDACTED]'s petition is without merit. His record received a substantially complete and fair evaluation by both Boards. Even with the petitioned report removed by the PERB, his record was not significantly improved. Captain [REDACTED]'s record has other areas of competitive concern beyond the petitioned report that more than likely led to his failures of selection. Therefore, we recommend disapproval of Captain [REDACTED]'s request for removal of his failures of selection.

5. Point of contact [REDACTED]

[REDACTED]

Lieutenant Colonel, U.S. Marine Corps
Head, Officer Career Counseling and
Evaluation Section
Officer Assignment Branch
Personnel Management Division



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

935-00

IN REPLY REFER TO:

1600
MMAA-4
29 SEP 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR PETITION FOR CAPTAIN [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Captain [REDACTED] USMC
of 27 Sep 00

1. Recommend disapproval of Captain [REDACTED]'s request for removal of his failures of selection.

2. Per the reference, we reviewed Captain [REDACTED] record and petition. He failed selection on the FY00 and FY01 USMC Major Selection Boards. Subsequently, he successfully petitioned the Performance Evaluation Review Board (PERB) for removal of the Change of Duty fitness report of 940201 to 940731. Captain [REDACTED] requests removal of his failures of selection.

3. In our opinion, the petitioned report did present competitive concern to the record. However, Captain [REDACTED] has other areas of competitive concern in his record that more than likely led to his failures of selection.

a. **Section B Marks.** The record reflects less competitive Section B marks in Additional Duties, Administrative Duties, Handling Officers, Tactical Handling of Troops, Military Presence, Attention to Duty, Initiative, Force, Leadership and Economy of Management.

b. **Overall Value and Distribution.** Captain [REDACTED]'s overall Value and Distribution marks are less competitive. He has 29 officers ranked above him and thirteen below, placing him near the bottom of the pack.

c. **Section C and Reviewing Officer Comments.** Captain [REDACTED]'s Section C and Reviewing Officer comments are replete with growing comments concerning guidance, supervision, operational experience and professional growth.

Subj: BCNR PETITION FOR CAPTAIN [REDACTED] SMC

4. In summary, we believe Captain [REDACTED]'s petition is without merit. His record received a substantially complete and fair evaluation by both Boards. Even with the petitioned report removed by the PERB, his record is not significantly improved. Captain [REDACTED]'s record has other areas of competitive concern beyond the petitioned report that more than likely led to his failures of selection. Therefore, we recommend disapproval of Captain [REDACTED]'s request for removal of his failures of selection.

5. Point of contact [REDACTED]

[REDACTED]

Lieutenant Colonel, U.S. Marine Corps
Officer Career Counseling and
Evaluation Section
Officer Assignment Branch
Personnel Management Division

21 February 2001

MEMO FOR RECORD

Re: Case of [REDACTED] CBMC, dated [REDACTED] 95-00

[REDACTED] HQMC (MMSB-20) says [REDACTED] ess rept for 17 Jan - 4 Sep 98 was filed on 23 Jun 99 and removed on 2 Dec 99; and that his rept for 1 Feb - 31 Jul 94 was removed on 3 Oct 00.

[REDACTED]
JOHN [REDACTED] SKIN
Head, Performance Section